B. Electricity-

1946 **File No.** Surcharge/46

Legal Department-

B **BRANCH** p. 29(E) 1946

Subject:— L.A. Bill No. XIV of 1946

A Bill to provide for the levy of Surcharge by Licensees and sanction Holders under the Indian Electricity Act, 1910 in respect of their undertakings

Bombay Act. No. XIX of 1946

File No. B. Electricity Surcharge/46

Gen. 194 e.

517-B

Office of the R.L.A.

A revised draft Bill is sent herewith.

2 Clause 3 of the Order has spent itself. Clause 3 of th Bill has therefore been recast so as to apply to prospectiv licensees and sanction-holders only.

Sub-clause(2)and the first proviso thereto have been revised with a view to precision.

P.W.D. is requested to verify if the First Schedule and the second proviso to sub-clause(2)are necessart or suitable

3. Clause 7 as amended by P.W.D., is inept It has been recast so as to save the existing surcharges under the Order

4 A new clause 10 has been added to provide for a penalty on the lines of rules 81(4)and 122 of the Defence of India Rules.

5 The subject-matter of the Bill falls under entries 31 and 1 in List III in the Seventh Schedule to the Government of India Act, 1935.

6. The Bill does not require any sanction or recommendation or affect any special responsibility of the Governor under the said Act. Since clause 5 of the Bill is repugnant to the provisions of the Indian Electricity Act, 1910,(Cl. XI and XIA in Schedule)which is an existing Indian law relating to a concurrent matter under entry 31 in List III, it will be necessary to reserve the Bill for the consideration of the Governor General under section 107(2)of the Government of India Act, 1935.

7 The draft Statement of Objects and Reasons at page 55 as slightly amended, is in order.

8 The R.L.A. has not been given sufficient time for the scrutiny of this Bill. The revised draft Bill has therefore been prepared as best as could be done within the short time allowed to him.

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Id./..... 11/7/46

Remembrancer of Legal Affairs.

U.R. to P.W.D.No. 186-L, dated the 11th July 1946

Office of the R.L.A.

A revised draft Bill settled in consultation with H.M.(L) and Secretary P.W.D. is sent herewith.

2. The Bill takes power to Government to fix a surcharge in the case of any licensee or sanction-holder on application made by him furnishing prescribed calculations, subject to such conditions as it may think fit to impose, conditions including the execution of an undertaking in the prescribed form that his profits in excess of the prescribed limits shall be transferred to a Rates Stabilization Reserve for prescribed purposes. All other matters are relegated to rules.

Power is also taken to Government to enhance or reduce the rate of surcharge once fixed.

3. The subject-matter of the Bill falls under entries 31 and 1 in List III in the Seventh Schedule to the Government of India Act, 1935.

4 The Bill does not require any sanction or recommendation or affect any special responsibility of the Governor under the said Act. Since clause 4 of the Bill is repugnant to the provisions of the Indian Electricity Act, 1910,(Cl. XI and Cl. XIA in Schedule)Which is an existing Indian Law relating to a concurrent matter under entry 31 in List III, it will be necessary to reserve the Bill for the consideration of the Governor General under section 107(2)of the Government of India Act, 1935.

5 The draft Statement of Objects and Reasons at page 55, as slightly amended, is in order.

6. In order to expedite matters, 15 typed copies of the Bill and Statement of Objects and Reasons are sent herewith for immediate circulation to the Honourable Ministers. Secretary, P.W.D. is requested kindly to return one copy of the Bill signed by the Honourable Minister in charge, with instructions as to the language in which the Bill may be translated, and the necessary steps for publishing the Bill in the Bombay Government Gazette will be taken immediately by the Legal Department.

Id./..... 20/7/46

Remembrancer of Legal Affairs.

U.R. to P.W.D., No. 258-L, dated the 21st July 1946.

SMR 17-7-56
4 Copies.

Legal Department.

The Bill to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings has been published in the Bombay Government Gazette Extraordinary dated the 16th August 1946. These papers are therefore returned to the Public Works department for submitting them to H.M.(P.W.D.) for his use at the time of introducing the Bill. That Department is requested to obtain H.E.'s certificate to the effect that the Bill does not require hi sanction or recommendation. The requisite draft of the certificate is sent herewith.

Id./..... 15/8

Assistant Secretary to Government.

U.R. to P.W.D.,No. 505 L dated the 19th August 1946.

SMR 17-7-56
4 Copies.

The Bill to provide for the levy of a surcharge by licensee s and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings does not require my sanction or recommendation under the Government of India Act, 1935.

GOVERNOR OF BOMBAY.

SMR 17-7-56
4 Copies.

Legal Department.

A revised draft notification is sent herewith.

Sd./.....

Deputy Secretary to Government.

U.R. to P.W.D.,No. 968-L, dated the 21st September 1946.

SMR 17-7-56
4 Copies.

NOTIFICATION.

Public Works Department,
Bombay Castle, 1946.

No. 6331/36.- In exercise of the powers conferred by sub-section(3)of section(1)of the Bombay Electricity(Surcharge)Act,1946, (Bom. X of 1946), the Government of Bombay is pleased to specify the following undertakings for the urpose of the said sub-section(3), namely:-

The Bombay Electricity(Surcharge) Act, 1946.
X To be filled in by P.W.D. before issue.

1 All undertakings where diesel oil. is used for the generation of energy, and All undertakings where stem is used for the generation of energy.

By order of the Governor of Bombay,

Secretary to Government.

SMR 17-7-56
4 Copies.

IMMEDIATE.

No. 729-L
Legal Department,
Council Hall, Poona, 18th Sept. 194

From

P.N.Moos, Esquire, C.I.E., I.C.S.,
Secretary to the Government of Bombay;

To

The Secretary to the Gove nor of Bombay.

Subject:- A Bill to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor, an authentic copy of a Bill to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 3rd and the 13th September 1946, respectively.

2 None of the provisions of the Bill affects any speci responsibility of the Governor under section 52(1)of the Government of India Act, 1935, or falls within the purview of clause (a),(b),(c) or (d) of paragraph XVII of the Instrument of Instructions to the Governor of Bombay.

3 The subject-matter of the Bill falls under entry 31 in List III in the Seventh Schedule to the Government of India Act, 1935.

4 Since clause 4 of the Bill is repugnant to the provisions of the Indian Electricity Act, 1910,(Clause XI and Clause XIA in Schedule)which is an existing Indian law relating to a concurrent matter under entry 31 in List III it will be necessary to reserve the Bill for the considera -tion of the Governor General under section 107(2)of the Government of India Act, 1935.

5 I am also to forward herewith six copies of each of the items Nos. 1 to 3 and two copies of item No. 4 of the papers noted in the margi The Bill was referred to a Select Commi -ttee.

1 Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.
2 Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council
3 Bill as read for the third time and passed by the Bombay Legislative Council.
4 Extracts from the proceedings of the B'bay Legislative Assembly dated the 3rd Sept. 1946 and of the Bombay Legislative Council dated the 13th September 194 6.

6 It is requested that His Excellency the Governor General may be moved to give his assent to the Bill before the 1st October 1946 and to convey the assent by wire as the new Act must come into force on that date, and also to communicate the date on which the assent is given.

Id./..... 18/9/46
Secretary to the Government of Bombay,
Legal Department.

Through the Secretary to the
Government of Bombay, Public Works Department.

SMR 17-7-56
4 Copies.

Office of the R.L.A.

The draft notification at ⋆ 7 ante is in order.

Sd./.....

For Remembrancer of Legal Affairs.

U.R. to P.W.D.No. 6066, dated the 5th September 1946.

SMR 17-7-56
4 Copies.

NOTIFICATION.

17

Public Works Department,
Bombay Castle, 1946.

Government of India Act, 1935.

No. 6331/36:- In exercise of the powers conferred by sub-section(1) of Section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the Bombay Electricity(Surcharge)Act, 1946(Bom. of 1946), shall apply to the partially excluded areas in the Province of Bombay.

By order of the Governor of Bombay,

Secretary to Government.

SMR 17-7-56
4 Copies.

No. G.S. 2945

Office of the Governor's Secretary,
Government House

From

D.Symington, Esquire, CIE, ICS.,
Secretary to the Governor of Bombay.

To

The Secretary to the Bombay Legislative Assembly
Council.

GANESHKHIND, 20th Sept. 1946.

Subject: The Bombay Electricity(Surcharge)Bill, 1946

Sir,

With reference to the above Bill, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council on th 3rd September 1946 and the 13th September 1946 respectively, I am directed to state, for the information of the Hon'ble the Speaker President that as the provisions of clause 4 of the Bill are repugnant to the provisions of the Indian Electricity Act, 1910(Clause XI and Clause XI in Schedule)which is an existing Indian law relating to a concurrent matter under entry 31 in List III of the Seventh Schedule to the Government of India Act, 1935, the Bill will have to be reserved for the consideration of His Excellency the Governor-General with reference to section 107(2)of the Government of India Act, 1935. His Excellency the Governor is accordingly pleased, under section 75 of the Act, to declare that he reserves the Bill for the consideration of the Governor-General.

I have the honour to be,
Sir,
Your most obedient servant,

Sd. D.Symington.
Secretary to the Governor of Bombay.

No. G.S.2946.
Ganeshkhind, 20th September 1946.
Copy forwarded with compliments to:-
The Secretary to Government, Legal Department, with reference to his letter No. 729-L, dated 18th September 1946.
Etc.

SMR 17-7-56,
4 Copies.

No. GS. 3171
Office of the Governor's Secretary
Government House

From

D. Symington, Esquire, CIE, ICS.,
Secretary to the Governor of Bombay

To

The Secretary to Government,
Legal Department, Poona.

Ganeshkhind, 5th October 1946.

Subject:-THE BOMBAY ELECTRICITY(SURCHARGE) BILL, 1946.

Sir,

With reference tothe correspondence ending with my letter No. GS. 3083, dated the 29th September 1946, on the above subject, I am directed to forward herewith the authentic copy of the Bombay Electricity (Surcharge)Bill, 1946,with His Excellency the Governor-General's assent signified thereon.

I have the honour to be,
Sir,
Your most obedient servant,

Sd./.....

for Secretary to the Governor of Bombay.

SMR 17-7-56
4 Copies.

BILLS.

A Bill to provide for the levy of a surcharge licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 459-L.
Council Hall, Poona, 14th August 1946.

Memorandum from the Public Works Department No. 6331/36-El(1) dated the 13th August 1946. Transferring for necessary action, the papers relating to a Bill to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings.

RESOLUTION: The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 16th August 1946, as Bill No. XIV of 1946.

2 The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette, on the 17th August 1946.

3 The dates of the various publications should be reported to the Secretary to the Bombay Legislative Assembly.

By order of the Governor of Bombay,

Sd./ K.M.CHITNVIS,
Assistant Secretary to the Government of Bomba
Legal Department.

To

The Manager, Governmen' Central Press, Bombay (with the Bill and S.O.R. and with a request that 230 Gazette copies of the Bill and S.O.R. may be forwarded to the Secretary to the Bombay Legisltive Assembly for distribution to the Members of the Bom bay Legislative Assembly and 25 copies for the use of the Legal Department).
Etc.

SMR 17-7-56
4 Copies.

Publication of the Bombay Electricity(Surcharge)Act, 1946.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 1042-L.
Council Hall, Poona, 29th September 1946.

Letter to the Secretary to the Governor, No. 729-L, dated the 13th September 1946.

Letter from the Secretary to the Governor, No. dated the September 1946:- Stating that the Bombay Electricity(Surcharge)Bill, 1946, received the assent of the Governor-General on the Sept. 1946

RESOLUTION:- The law should be published as Bombay Act No. XIX of 1946 in the Bombay Government Gazette, dated the 30th September 1946.

2 The Act should be translated into Marathi, Gujarati, Kannada and Hindustani(in Urdu and Devnagari scripts)and the translations should be published in the Bombay Goverment Gazette.

3 A copy of the Act should be forwarded to the Public Works Department with reference to the memorandum from that Department No. 6331/36-E1(1), dated the 13th August 1946.

By order of the Governor of Bombay,
Sd./K.M.CHITNVIS
Assistant Secretary to Government.

To
The Manager, Government Central Press, Bombay(with a copy of the Act and with a request that 15 Gazette copies of the Act may be forwarded to the Legal Department).
Etc.

SMR 17-7-56
4 Copies.

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L. A. BILL No. XIV OF 1946.

A Bill to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings.

(As published in the "Bombay Government Gazette" of 16th August 1946.)

WHEREAS it is expedient to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings; It is hereby enacted as follows:—

IX of 1910.

Short title, extent and application.

1. (*1*) This Act may be called the Bombay Electricity (Surcharge) Act, 1946.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall apply to such undertakings as the Provincial Government may, by notification in the Official Gazette, specify.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "licensee" means any person licensed under Part II of the principal Act to supply energy;

(*ii*) "prescribed" means prescribed by rules;

(*iii*) "principal Act" means the Indian Electricity Act, 1910;

IX of 1910.

(*iv*) "sanction-holder" means a person supplying electrical energy with the previous sanction of the Provincial Government under section 28 of the principal Act;

(*v*) words and expressions used in this Act but not defined shall have the meanings assigned to them in the principal Act.

Power of Provincial Government to fix rate of surcharge.

3. (*1*) Any licensee or sanction-holder may apply to the Provincial Government in the prescribed form for fixing a rate of surcharge on the charges for energy or street lighting equipment leviable by him under the terms of his license, sanction or contract, as the case may be. Such application shall be accompanied by such calculations as may be prescribed.

(*2*) On receipt of an application under sub-section (*1*), the Provincial Government may, if it considers that a surcharge is desirable in the case of such licensee or sanction-holder, by order notified in the Official Gazette, fix the rate of surcharge.

(*3*) The rate of surcharge fixed under sub-section (*2*) shall not exceed—

(*a*) 33⅓ per centum in the case of undertakings where diesel oil is used for the generation of energy,

(*b*) 20 per centum in the case of undertakings where steam is used for the generation of energy.

(*4*) In the order fixing the rate of surcharge under sub-section (*2*), the Provincial Government may specify such conditions as it may think fit to be observed by the licensee or sanction-holder.

(*5*) Without prejudice to the generality of the power contained in sub-section (*4*), the Provincial Government may require the execution of an undertaking in the prescribed form by the licensee or sanction-holder that his profits in excess of the prescribed limits shall be transferred to a Rates Stabilization Reserve for prescribed purposes.

(*6*) The Provincial Government may at any time enhance or reduce by a like order the rate fixed under sub-section (*2*).

Licensee and sanction-holder not to supply energy at charges other than charges surcharged.

4. Upon the rate of surcharge being fixed by the Provincial Government from time to time in accordance with this Act, it shall not be lawful for the licensee or sanction-holder concerned except with the previous sanction of the Provincial Government to charge at other than charges surcharged at the rate for the time being so fixed:

Provided that no surcharge or any subsequent revision thereof shall affect charges leviable for any period not covered by the relevant order of the Provincial Government.

Existing surcharges deemed to be made under this Act.

5. Any existing surcharges applied by a licensee or sanction-holder under the provisions of the Bombay Electricity Supply (Licensed Undertakings' War Costs) Order, 1944, to his charges shall be deemed to be surcharges fixed under section 3.

Act to apply notwithstanding any other law etc.

6. The provisions of this Act shall apply notwithstanding anything contained in any other law or in any license or sanction granted under the principal Act, or in any contract for energy or for maintenance of street lighting equipment.

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Rules.

7. (*1*) The Provincial Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may make rules providing for the form of application and the calculations to accompany it under sub-section (*1*) of section 3, and the form of undertaking to be executed, the limits in excess of which profits of a licensee or sanction-holder shall be transferred to a Rates Stabilization Reserve and the purposes for which they shall be so transferred under sub-section (*5*) of section 3.

STATEMENT OF OBJECTS AND REASONS.

With a view to enable licensees and sanction-holders for the supply of electrical energy to recover extra expenses on the production and supply of electrical energy due to conditions arising out of the war, Government has permitted them to recover surcharges at rates fixed by Government in each case under an Order issued under the Defence of India Rules. Since the Defence of India Rules will cease to be in force from the 1st October 1946, it is necessary in the public interest to provide for the continuance of this concession subject to certain conditions and restrictions till normal conditions prevail.

2. The present Act is designed to achieve the above object.

M. D. D. GILDER.

Dated 12th August 1946.

Government of Bombay.

LEGAL DEPARTMENT

[L. A. BILL No. XIV OF 1946

(As published in the "Bombay Government Gazette" of 16th August 1946.)

A Bill to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings.

[Dr. M. D. D. GILDER, M.L.A.

P Bk H 651—2

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XIV OF 1946.

A Bill to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings.

(As read for the third time and passed by the Legislative Assembly on the 3rd September 1946.)

WHEREAS it is expedient to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings; It is hereby enacted as follows :—

IX of 1910.

1. (*1*) This Act may be called the Bombay Electricity (Surcharge) Act, 1946. Short title, extent and application.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall apply to such undertakings as the Provincial Government may, by notification in the Official Gazette, specify.

(*4*) It shall be in force for a period of three years only.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*i*) "licensee" means any person licensed under Part II of the principal Act to supply energy;

(*ii*) "prescribed" means prescribed by rules;

(*iii*) "principal Act" means the Indian Electricity Act, 1910; IX of 1910.

(*iv*) "sanction-holder" means a person supplying electrical energy with the previous sanction of the Provincial Government under section 28 of the principal Act;

(*v*) words and expressions used in this Act but not defined shall have the meanings assigned to them in the principal Act.

Power of Provincial Government to fix rate of surcharge.

3. (*1*) Any licensee or sanction-holder may apply to the Provincial Government in the prescribed form for fixing a rate of surcharge on the charges for energy or street lighting equipment leviable by him under the terms of his license, sanction or contract, as the case may be. Such application shall be accompanied by such calculations as may be prescribed.

(*2*) On receipt of an application under sub-section (*1*), the Provincial Government may, if it considers that a surcharge is desirable in the case of such licensee or sanction-holder, by order notified in the Official Gazette, fix the rate of surcharge.

(*3*) The rate of surcharge fixed under sub-section (*2*) shall not exceed—

(*a*) 33⅓ per centum in the case of undertakings where diesel oil is used for the generation of energy,

(*b*) 20 per centum in the case of undertakings where steam is used for the generation of energy.

(*4*) In the order fixing the rate of surcharge under sub-section (*2*), the Provincial Government may specify such conditions as it may think fit to be observed by the licensee or sanction-holder.

(*5*) Without prejudice to the generality of the power contained in sub-section (*4*), the Provincial Government may require the execution of an undertaking in the prescribed form by the licensee or sanction-holder that his profits in excess of the prescribed limits shall be transferred to a Rates Stabilization Reserve for prescribed purposes.

(*6*) The Provincial Government may at any time enhance or reduce by a like order the rate fixed under sub-section (*2*).

Licensee and sanction-holder not to supply energy at charges other than charges surcharged.

4. Upon the rate of surcharge being fixed by the Provincial Government from time to time in accordance with this Act, it shall not be lawful for the licensee or sanction-holder concerned except with the previous sanction of the Provincial Government to charge at other than charges surcharged at the rate for the time being so fixed:

Provided that no surcharge or any subsequent revision thereof shall affect charges leviable for any period not covered by the relevant order of the Provincial Government.

Existing surcharges deemed to be made under this Act.

5. Any existing surcharges applied by a licensee or sanction-holder under the provisions of the Bombay Electricity Supply (Licensed Undertakings' War Costs) Order, 1944, to his charges shall be deemed to be surcharges fixed under section 3.

Act to apply notwithstanding any other law etc.

6. The provisions of this Act shall apply notwithstanding anything contained in any other law or in any license or sanction granted under the principal Act, or in any contract for energy or for maintenance of street lighting equipment.

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Rules.

7. (*1*) The Provincial Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may make rules providing for the form of application and the calculations to accompany it under sub-section (*1*) of section 3, and the form of undertaking to be executed, the limits in excess of which profits of a licensee or sanction-holder shall be transferred to a Rates Stabilization Reserve and the purposes for which they shall be so transferred under sub-section (*5*) of section 3.

STATEMENT OF OBJECTS AND REASONS.

With a view to enable licensees and sanction-holders for the supply of electrical energy to recover extra expenses on the production and supply of electrical energy due to conditions arising out of the war, Government has permitted them to recover surcharges at rates fixed by Government in each case under an Order issued under the Defence of India Rules. Since the Defence of India Rules will cease to be in force from the 1st October 1946, it is necessary in the public interest to provide for the continuance of this concession subject to certain conditions and restrictions till normal conditions prevail.

2. The present Act is designed to achieve the above object.

M. D. D. GILDER.

Dated 12th August 1946.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XIV OF 1946.]

(As read for the third time and passed by the Legislative Assembly on the 3rd September 1946.)

A Bill to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings.

[Dr. M. D. D. GILDER, M.L.A.]

P Bk H 720—2

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

Registered No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

MONDAY, 30TH SEPTEMBER 1946.

Separate paging is given to this Part in order that it may be filed as a separate compilation

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

CONTENTS.

	PAGES
BOMBAY ACT No. XIX OF 1946—An Act to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings	176-178

The following Act of the Bombay Legislature having been assented to by the Governor-General on the 28th September 1946 is hereby published for general information.

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XIX OF 1946.

(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 30th September 1946.)

An Act to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings.

WHEREAS it is expedient to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings; It is hereby enacted as follows:—

IX of 1910.

1. (*1*) This Act may be called the Bombay Electricity (Surcharge) Act, 1946. **Short title, extent, application and duration.**

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall apply to such undertakings as the Provincial Government may, by notification in the Official Gazette, specify.

(*4*) It shall be in force for a period of three years only.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "licensee" means any person licensed under Part II of the principal Act to supply energy;

(*ii*) "prescribed" means prescribed by rules;

(*iii*) "principal Act" means the Indian Electricity Act, 1910; IX of 1910.

(*iv*) "sanction-holder" means a person supplying electrical energy with the previous sanction of the Provincial Government under section 28 of the principal Act;

(*v*) words and expressions used in this Act but not defined shall have the meanings assigned to them in the principal Act.

Power of Provincial Government to fix rate of surcharge.

3. (*1*) Any licensee or sanction-holder may apply to the Provincial Government in the prescribed form for fixing a rate of surcharge on the charges for energy or street lighting equipment leviable by him under the terms of his licence, sanction or contract, as the case may be. Such application shall be accompanied by such calculations as may be prescribed.

(*2*) On receipt of an application under sub-section (*1*), the Provincial Government may, if it considers that a surcharge is desirable in the case of such licensee or sanction-holder, by order notified in the Official Gazette, fix the rate of surcharge.

(*3*) The rate of surcharge fixed under sub-section (*2*) shall not exceed—

(*a*) 33⅓ per centum in the case of undertakings where diesel oil is used for the generation of energy,

(*b*) 20 per centum in the case of undertakings where steam is used for the generation of energy.

(*4*) In the order fixing the rate of surcharge under sub-section (*2*), the Provincial Government may specify such conditions as it may think fit to be observed by the licensee or sanction-holder.

(*5*) Without prejudice to the generality of the power contained in sub-section (*4*), the Provincial Government may require the execution of an undertaking in the prescribed form by the licensee or sanction-holder that his profits in excess of the prescribed limits shall be transferred to a Rates Stabilization Reserve for prescribed purposes.

(*6*) The Provincial Government may at any time enhance or reduce by a like order the rate fixed under sub-section (*2*).

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257

Licensee and sanction-holder not to supply energy at charges other than charges surcharged.

4. Upon the rate of surcharge being fixed by the Provincial Government from time to time in accordance with this Act, it shall not be lawful for the licensee or sanction-holder concerned except with the previous sanction of the Provincial Government to charge at other than charges surcharged at the rate for the time being so fixed:

Provided that no surcharge or any subsequent revision thereof shall affect charges leviable for any period not covered by the relevant order of the Provincial Government.

Existing surcharges deemed to be made under this Act.

5. Any existing surcharges applied by a licensee or sanction-holder under the provisions of the Bombay Electricity Supply (Licensed Undertakings' War Costs) Order, 1944, to his charges shall be deemed to be surcharges fixed under section 3.

Act to apply notwithstanding any other law etc.

6. The provisions of this Act shall apply notwithstanding anything contained in any other law or in any licence or sanction granted under the principal Act, or in any contract for energy or for maintenance of street lighting equipment.

Rules.

7. (*1*) The Provincial Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may make rules providing for the form of application and the calculations to accompany it under sub-section (*1*) of section 3, and the form of undertaking to be executed, the limits in excess of which profits of a licensee or sanction-holder shall be transferred to a Rates Stabilization Reserve and the purposes for which they shall be so transferred under sub-section (*5*) of section 3.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

CONTENTS.

	PAGES
BOMBAY ACT No. XIX OF 1946—An Act to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings	**176-178**

The following Act of the Bombay Legislature having been assented to by the Governor-General on the 28th September 1946 is hereby published for general information.

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XIX OF 1946.

(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 30th September 1946.)

An Act to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings.

WHEREAS it is expedient to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings; It is hereby enacted as follows:—

IX of 1910.

Short title, extent, application and duration.

1. (*1*) This Act may be called the Bombay Electricity (Surcharge) Act, 1946.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall apply to such undertakings as the Provincial Government may, by notification in the Official Gazette, specify.

(*4*) It shall be in force for a period of three years only.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "licensee" means any person licensed under Part II of the principal Act to supply energy;

(*ii*) "prescribed" means prescribed by rules;

(*iii*) "principal Act" means the Indian Electricity Act, 1910; IX of 1910.

(*iv*) "sanction-holder" means a person supplying electrical energy with the previous sanction of the Provincial Government under section 28 of the principal Act;

(*v*) words and expressions used in this Act but not defined shall have the meanings assigned to them in the principal Act.

Power of Provincial Government to fix rate of surcharge.

3. (*1*) Any licensee or sanction-holder may apply to the Provincial Government in the prescribed form for fixing a rate of surcharge on the charges for energy or street lighting equipment leviable by him under the terms of his licence, sanction or contract, as the case may be. Such application shall be accompanied by such calculations as may be prescribed.

(*2*) On receipt of an application under sub-section (*1*), the Provincial Government may, if it considers that a surcharge is desirable in the case of such licensee or sanction-holder, by order notified in the Official Gazette, fix the rate of surcharge.

(*3*) The rate of surcharge fixed under sub-section (*2*) shall not exceed—

(*a*) 33⅓ per centum in the case of undertakings where diesel oil is used for the generation of energy,

(*b*) 20 per centum in the case of undertakings where steam is used for the generation of energy.

(*4*) In the order fixing the rate of surcharge under sub-section (*2*), the Provincial Government may specify such conditions as it may think fit to be observed by the licensee or sanction-holder.

(*5*) Without prejudice to the generality of the power contained in sub-section (*4*), the Provincial Government may require the execution of an undertaking in the prescribed form by the licensee or sanction-holder that his profits in excess of the prescribed limits shall be transferred to a Rates Stabilization Reserve for prescribed purposes.

(*6*) The Provincial Government may at any time enhance or reduce by a like order the rate fixed under sub-section (*2*).

Licensee and sanction-holder not to supply energy at charges other than charges surcharged.

4. Upon the rate of surcharge being fixed by the Provincial Government from time to time in accordance with this Act, it shall not be lawful for the licensee or sanction-holder concerned except with the previous sanction of the Provincial Government to charge at other than charges surcharged at the rate for the time being so fixed:

Provided that no surcharge or any subsequent revision thereof shall affect charges leviable for any period not covered by the relevant order of the Provincial Government.

Existing surcharges deemed to be made under this Act.

5. Any existing surcharges applied by a licensee or sanction-holder under the provisions of the Bombay Electricity Supply (Licensed Undertakings' War Costs) Order, 1944, to his charges shall be deemed to be surcharges fixed under section 3.

Act to apply notwithstanding any other law etc.

6. The provisions of this Act shall apply notwithstanding anything contained in any other law or in any licence or sanction granted under the principal Act, or in any contract for energy or for maintenance of street lighting equipment.

Rules.

7. (*1*) The Provincial Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may make rules providing for the form of application and the calculations to accompany it under sub-section (*1*) of section 3, and the form of undertaking to be executed, the limits in excess of which profits of a licensee or sanction-holder shall be transferred to a Rates Stabilization Reserve and the purposes for which they shall be so transferred under sub-section (*5*) of section 3.

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Mr. D. V. BELVI : Sir, I would like to know from the Hon. Minister whether these undertakings are working now at a loss, and what is the standard of profits which Government think is reasonable in their case.

Dr. M. D. D. GILDER : Government has not yet decided what should be called legitimate profit. It will decide this after the Bill is passed. There is, for instance, no surcharge on hydro-electric companies because in their case cost of production has not gone up. There is a surcharge only in the case of diesel oil—run and steam-run companies, and that varies according to the conditions of the particular individual company. The object of Government is to vary the surcharge according to the conditions of each individual company.

Mr. D. V. BELVI : Sir, I want to know what profits were made by the various undertakings and whether they were working at a loss. So far as the Belgaum Electricity Company is concerned, it is charging 33⅓ per cent. on all the items together. First of all there is a charge on the units consumed, then there is the Government charge, and there is a standing permanent charge on every electri pump of Rs. 4. They total all these sums and on the total of that they again charge 33⅓ per cent. That is unfair. My information is that they are making very large profits.

Dr. M. D. D. GILDER : That is why I said that Government has taken the power in the Bill to impose such conditions as it wishes. It wants to consider the case of each individual company, and I gave an instance that some companies are putting in the minimum charge and then on the minimum charge it charges a surcharge. Government will consider each case on its own merits.

Mr. D. V. BELVI : What is the amount of profits made by the Belgaum Company ?

Dr. M. D. D. GILDER : I am afraid I have not got the figures with me here.

Question " that the Bill be read a first time " put, and agreed to.

Dr. M. D. D. GILDER : Sir, I beg to move that L. A. Bill No. XIV of 1946 (A Bill to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings) be read a second time.

Question put, and agreed to.

Bill read clause by clause.

The Hon. the PRESIDENT : There are no amendments received to this Bill and, therefore, I shall put clauses 1, 2, 3, 4, 5, 6 and 7 together to the House.

Clauses 1 to 7, both inclusive, ordered to stand part of the Bill.

The Preamble ordered to stand part of the Bill.

Dr. M. D. D. GILDER : Sir, I beg to move that L. A. Bill No. XIV of 1946 (A Bill to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings) be read a third time and passed.

Question put, and agreed to.

The Hon. the PRESIDENT : The Bill is read a third time and passed.

BOMBAY PRINTED AT THE GOVERNMENT CENTRAL PRESS

333
1-167

L. A. BILL No. XIV OF 1946 (A BILL TO PROVIDE FOR THE LEVY OF A SURCHARGE BY LICENSEES AND SANCTION-HOLDERS UNDER THE INDIAN ELECTRICITY ACT, 1910, IN RESPECT OF THEIR UNDERTAKINGS).

Dr. M. D. D. GILDER (Minister for P. W. D.): Sir, I introduce L. A. Bill No. XIV of 1946 (A Bill to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings)*

The Hon. the PRESIDENT: The Bill is introduced.

Dr. M. D. D. GILDER: Sir, I move that L. A. Bill No. XIV of 1946 (A Bill to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings) be read a first time.

Question proposed.

Dr. M. D. D. GILDER: Sir, owing to the war there was difficulty in obtaining fuel, difficulty in obtaining spare-parts and difficulty in obtaining other materials required for electricity undertakings, and they had to incur extra expenditure to get them. Therefore, a certain amount of surcharge was allowed to them. Though the war is over, the conditions have not yet materially improved, and a certain amount of surcharge is still thought to be necessary. Therefore, Government has come to the House to allow it to continue the things which are already there and to give it the power to vary them as the conditions improve. That is the only purpose and object of this Bill.

Various provisions have been made in the Bill. The sanction-holder or the licensee has got to make an application. In that he has got to submit his accounts in a certain prescribed form. On going through that form if the Government is satisfied that the undertaking is not a profitable concern, it will allow it to levy a surcharge, and the maximum rate of surcharge that Government can give is put down. It is 33⅓ per cent. where diesel oil is used and 20 per cent. where steam is used.

Then Government also takes power to impose certain conditions. For instance, certain companies put in the minimum charge, and Government reserves to itself the power to impose a condition whether surcharge should or should not be taken on the minimum charge. Similarly, if an undertaking is flourishing, that extra amount that the undertaking is making goes to the Rates Stabilization Reserve, so that it can be used in the future to stabilise the rates. How much should be kept in the Rates Stabilisation Reserve and how much of it should be used by the undertakings is also left to be decided by Rules.

Government has also taken the power to make Rules. I would draw hon. Members' attention to sub-clause (*4*) of clause 1 of the Bill which says that the Act shall be in force for a period of three years only; so that, this is only a temporary measure and if Government wishes to continue the measure for more than three years, Government will have to come before the House again.

Dr. G. S. MAHAJANI: If this House remains till then. (*Laughter*).

*The Bill was passed by the Legislative Assembly on September 3, 1946.